

IN THE MATTER OF	:	BEFORE THE
JERRY KRAMER II	:	HOWARD COUNTY
for GABLESIGNS & GRAPHICS, INC.	:	BOARD OF APPEALS
Petitioner	:	HEARING EXAMINER
	:	BA Case No. 06-002S

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DECISION AND ORDER

On July 24, 2006, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the petition of Jerry Kramer II, for GableSigns & Graphics, Inc., Petitioner, for a variance to erect a 25 square foot, 12' tall freestanding commercial identification sign 5 feet from the Route 144 right-of-way in a B-1 (Business-Local) Zoning District, filed pursuant to Section 3.513 of Subtitle 5 of Title 3 of the Howard County Code (the "Sign Code").

The Petitioner certified that notice of the hearing was advertised and that the subject property was posted as required by the Howard County Code. I viewed the subject property as required by the Hearing Examiner Rules of Procedure.

The Petitioner was not represented by counsel. Jerry Kramer testified in support of the petition. No one appeared in opposition to the petition.

FINDINGS OF FACT

Based upon the preponderance of evidence presented at the hearing, I find the following facts:

1. The Petitioner is the sign contractor for Bank of America, the lessee of the subject property, which has an address of 12630 Frederick Road and is located in the 3rd Election

District on the north side of Frederick Road (Maryland Route 144) about 250 feet east of Maryland Route 32 in West Friendship (the “Property”). The Property is referenced on Tax Map 15, Block 11 as Parcel 80.

2. The Property is pentagonal in shape and consists of about 1.65 acres. The Property has about 367 feet of frontage on Frederick Road and is about 282 feet deep along its east side and 138 feet deep along its west side.

The Property is improved with a 110’ by 34’ building located in the southeast portion of the site about 50 feet from the Frederick Road right-of-way. Parking and a drive aisle are located in front of the building with additional parking in the rear. The site has three driveway entrances located on either side and in between two landscaped islands along the road frontage.

3. Vicinal properties are zoned RR-DEO and include:

- (a) To the north is unimproved land.
- (b) To the east is a BGE Power Substation.
- (c) To the south across Frederick Road is a one-story, single-family detached dwelling.
- (d) To the west is unimproved land.

4. The Petitioner proposes to erect a freestanding commercial sign behind the westernmost landscaped island about 5 feet from the Frederick Road right-of-way. The sign will be 3 feet, 6 inches high and 7 feet, 3 inches wide and will be set atop a 1 foot, 9 inch, 12 foot tall support column. The face of the sign will consist of the words “Bank of America” and its identification logo. The total area of the sign will be 25 square feet and it will stand

12 feet above grade. The Sign Code therefore requires the sign to be set back 25 feet in relation to sign area and 24 feet in relation to sign height.

5. Frederick Road has a posted speed limit of 40 mph in the area of the Property. The Property is located on a steep hill along Frederick Road. Deciduous trees and utility poles are located along the street line to the east of the Property; deciduous trees, utility poles, road signs and a guardrail are located along the street line to the west of the Property.

6. The Petitioner testified that if the sign could not be lower in height without interfering with the drive-through clearance for vehicles in the parking lot.

CONCLUSIONS OF LAW

Section 3.513(b) of the Sign Code permits the Board of Appeals to grant variances from the provisions of the Sign Code where certain determinations are made. Based upon the foregoing Findings of Fact, I conclude as follows:

1. That there are unique physical conditions or exceptional topographical conditions peculiar to the property on which the proposed sign is to be located, including the location of existing buildings and other structures, irregularity, narrowness or shallowness of the lot, irregularity of the road right-of-way, location on a highway that has a dependency on nonlocal use, which conditions lead to practical difficulty and unnecessary hardship in complying strictly with the provisions of this subtitle.

The location of the building, drive aisle and parking spaces on the Property prevents locating the proposed sign in these areas. In addition, the location of the Property on Route 144, which is a highway that has a dependency on nonlocal use, necessitates taller and larger signs visible to fast-moving vehicles from the roadway. These conditions lead to practical difficulty and unnecessary hardship in complying strictly with the setback requirements of the Sign Code, in accordance with Section 3.513(b)(1).

2. Or, that there are obstructions, such as excessive grade, building interference, structures or landscaping on abutting property or properties which seriously interfere

with the visibility of a proposed sign, resulting in practical difficulties and unnecessary hardship in complying strictly with the provisions of this subtitle.

The location of deciduous trees, utility poles, road signage, and a guardrail along the road frontage would make it difficult for both eastbound and westbound motorists to view the proposed sign if it were to be set back any further than 5 feet from the Frederick Road right-of-way. These conditions therefore represent obstructions that seriously interfere with the visibility of the proposed sign resulting in practical difficulties and unnecessary hardship in complying strictly with the height and setback requirements of the Sign Code, in accordance with Section 3.513(b)(2).

3. Or, that there are historical, architectural or aesthetic characteristics which shall be considered.

There are no historical, architectural or aesthetic characteristics of the Property to be considered under section 3.513(b)(3).

4. That the variance, if granted, will not adversely affect the appropriate use or development of adjacent properties, nor result in a dangerous traffic condition.

The sign will be centrally located on the lot and well separated from vicinal properties. The closest vicinal properties are a utility substation and unimproved land. Consequently, the variances, if granted, will not adversely affect the appropriate use or development of adjacent properties, nor result in a dangerous traffic condition as required by Section 3.513(b)(4).

5. That the requested variance is the minimum necessary to afford relief, and can be granted without substantial impairment of the intent, purpose and integrity of this subtitle.

In order to be readily identified by eastbound or westbound motorists traveling at the posted speed limit in sufficient time to make safe turning movements, the sign must be erected at the proposed location. In addition, the sign must be 12 feet in height in order to

provide sufficient clearance for vehicles in the parking lot. The requested variance is therefore the minimum necessary to afford relief, and can be granted without substantial impairment of the intent, purpose and integrity of the Sign Code, in accordance with Section 3.513(b)(5).

6. That such practical difficulties or hardships have not been created by the applicant; provided, however, that where required findings pursuant to section 3.513 are made, the purchase or lease of the property on which a proposed sign is to be located subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.

The practical difficulties are a result of the location of existing improvements on the Property and the vicinal obstructions along Fredrick Road. The Petitioner did not create these conditions, in accordance with Section 3.513(b)(6).

ORDER

Based upon the foregoing, it is this **15th day of August 2006**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the petition of Jerry Kramer II, for GableSigns & Graphics, Inc., for a variance to erect a 25 square foot, 12' tall freestanding commercial identification sign 5 feet from the Route 144 right-of-way in a B-1 (Business-Local) Zoning District is hereby **GRANTED;**

Provided, however, that the variance will apply only to the uses and structures as described in the petition and plan submitted, and not to any other activities, uses, structures, or additions on the Property.

**HOWARD COUNTY BOARD OF APPEALS
HEARING EXAMINER**

Thomas P. Carbo

Date Mailed: _____

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.